

Remarks

In response to the restriction requirement, the applicant affirms the provisional election made by telephone on February 23, 2009 to prosecute the invention of group I, claims 1-22. Accordingly, claims 23-25 are withdrawn from consideration.

Claim 1 is currently amended to recite that a screed capable of flowing comprises (i) 15% to 75% by weight of a recycled glass waste or a recycled glass waste sand residue; (ii) 15% to 65% of a calcium sulfate powder binder selected from at least one of alpha hemihydrate plaster, beta hemihydrate plaster, anhydrite or a combination of two or more thereof; and (iii) 10% to 20% by weight of water based on the weight of the screed.

Claim 1 is rejected under 35 U.S.C. §102(b) as anticipated by Monawar, US 2003/0041783 (“Monawar”).

Claims 1-7, 11, 14, and 17-18 are rejected under 35 U.S.C. §103(a) as being obvious over Monawar in view of Ruediger, DE 434207 (“Ruediger”).

Claims 8-10 are rejected under 35 U.S.C. §103(a) as being obvious over Monawar in view of Ruediger as applied to claims 1-7, 11, 14, and 17-18 above, and further in view of Niel et al., WO 03/045870 (“Niel”).

Claims 12-13, 15-16, and 19-22 are rejected under 35 U.S.C. §103(a) as being obvious over Monawar in view of Ruediger as applied to claims 1-7, 11, 14, and 17-18 above, and further in view of Cowan, US 5,298,070 (“Cowan”).

In light of the foregoing amendment of the claims and the remarks that follow, all of these rejections are respectfully traversed.

A required component of the Monawar composition, which is lacking in applicant’s screed composition is calcined kaolin, whose preparation and properties are described in [0023]-[0026] of the reference. In [0006] of EP 1622847 B1, which corresponds to the instant application, applicant takes note of calcined kaolin that is not included in his composition but is an essential ingredient of Monawar.

In light of this substantial dissimilarity between applicant's composition and that of Monawar, the rejection of instant claim 1 on grounds of anticipation is clearly improper. Withdrawal of the §102(b) rejection of claim 1 is therefore respectfully requested.

In the §103(a) rejection of claims 1-7, 11, 14, and 17-18, Ruediger is relied on for its disclosure of calcium sulfate in various states of hydration to remedy deficiencies in the teaching of Monawar. The Ruediger hydraulic binder composition, which contains no particulate glass but does include as an essential component an iron-containing high alumina cement (Abstract), an ingredient that is not present in applicant's composition.

The teachings of Monawar and Ruediger are not properly combinable to render obvious the applicant's invention. Withdrawal of the §103(a) rejection of claims 1-7, 11, 14, and 17-18 is therefore respectfully requested.

Niel teaches a process for preparing a slag with hydraulic properties that is purported to be a replacement for traditional Portland cement (cf. page 2, lines 1-12). In the §103(a) rejection of claims 8-10, Niel is cited for its teaching of a melt formed from "limestone, fly ash, and any additives" and having a composition of 33-52 wt.% CaO, 9-25 wt.% Al₂O₃, and 23-45 wt.% SiO₂ (cf. page 1, lines 4-14).

The relevance of the Niel disclosure to instant claims 8-10 is not readily apparent. In an event, it fails to remedy the deficiencies of Monawar and Ruediger for rendering obvious the applicant's invention. Withdrawal of the §103(a) rejection of claims 8-10 is therefore respectfully requested.

Cowan, which discloses a cement slurry that includes no particulate glass, is relied on for its teaching of specified percentages of additives such as surfactants, accelerators, and polymers. However the teaching of Cowan fails to remedy the deficiencies of Monawar and Ruediger for rendering obvious the applicant's invention. Withdrawal of the §103(a) rejection of claims 12-13, 15-16, and 19-22 is therefore respectfully requested.

Claims 1 and 3-25 remain pending in this application; claims 23-25 have been withdrawn from consideration. In light of the foregoing claim amendments and remarks, prompt allowance of claims 1 and 3-22 is earnestly solicited.


Respectfully submitted,



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Dated: June 17, 2009

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<p style="text-align: center;">CERTIFICATE OF TRANSMISSION</p> <p>Thereby certify that this correspondence is being transmitted by electronic filing to: Commissioner for Patents, Alexandria, VA 22313-1450, on June 17, 2009.</p> <div style="text-align: center;"> <hr style="width: 100px; margin: 0 auto;"/><p>Jane M. Potts</p></div> <p>Date of Signature: June 17, 2009</p>
